

Dear Sir/Madam:

I am writing to comment on the above reference proposed rule.

Enclosed are my comments on this matter. Please provide them with all due consideration. If you have any questions or comments regarding the enclosed information feel free to contact Ms. Marcia M. Schiff, my General Counsel, at (718) 743-8610.

Thank you for allowing me this opportunity to express my opinion on this important issue.

Sincerely,

Carl Kruger  
Member of Senate

Enclosures

“The FACT Act requires that consumers be able to request their annual file disclosures through specific request methods, but does not mandate the method by which the nationwide consumer reporting agencies may deliver those file disclosures. FCRA section 610 (b), 15 U.S.C. 1681h(b), specifies that disclosures may be made in such form as may be specified by the consumer and available from the agency. Thus, the proposed rule allows nationwide consumer reporting agencies flexibility in determining that methods of annual file disclosure delivery to make available to consumers.”

**I do not believe that nationwide consumer reporting agencies should have flexibility in determining what methods of annual file disclosure delivery to make available to consumers. What would occur is a nationwide consumer reporting agency decided that annual file disclosure would only be made available to consumers through the reporting agencies website or by telephone? This would make it impossible for consumers who are not Internet savvy or who do not have access to the Internet or telephone service to obtain their credit reports. In order to insure consumers have full access to their free credit reports, they must be given full choice as to how they wish to receive delivery of the report.**

“Proposed rule section 610.2(b) (2) (ii) refers to transaction(s) requested by the consumer. The proposed rule would permit nationwide consumer reporting agencies to advertise and to offer products and services in addition to the required annual file disclosure through the centralized source, provided that these activities do not interfere, detract from, contradict or undermine the purpose of the centralized source. See discussion infra, section B, Communications Through the Centralized Source.”

“Section 610.2(g) of the proposed rule governs the possible use of the centralized source for other communications, including marketing or advertising.

(a) Are the provisions of this section, along with the prohibitions of the FTC Act, adequate to ensure that consumers are protected against communications that may interfere with the purpose of the centralized source?”

**The provisions of the section along with the prohibitions of the FTC Act are not adequate to ensure that consumers are protected against communications that may interfere with the**

**purpose of the centralized source. The purpose of the centralized source is to allow consumers to easily obtain their free credit report. The purpose of the centralized source is not to provide nationwide consumer reporting to consumers.**

**Consumers are tired of receiving unsolicited advertisements. The vast number of consumers signing up for the Do Not Call Registry and the number of consumers clamoring for anti-spam legislation bears this out. Consumers should not be subject to further advertisements just because they want to exercise their right under law to obtain a free credit report. If you wish to permit nationwide consumer reporting agencies to advertise through the centralized source, you should, as part of the proposed rule, allow consumers the opportunity to “opt in” for this information. In this manner only those consumers who are interested in obtaining such advertisements would be subject to them. The “opting in” process would be easy to implement by providing consumers either a prompt to push during a telephone call or a check-off box on a form or website to “opt in” for advertisements.**

“The nationwide consumer reporting agencies presumably already collect these same types of information currently in providing file disclosures and other products to consumers,<sup>9</sup> but it is unclear how they use or disclose it. Therefore, the Commission solicits comment on how the differing types of information currently collected in providing file disclosures are used and disclosed by the nationwide consumer reporting agencies and whether such information should be treated differently when it is collected through the centralized source.”

“Section 610.2 (b) (2) (ii) allows the nationwide consumer reporting agencies to collect, through the centralized source, only as much information as is reasonably necessary to properly identify the consumer as required under the Fair Credit Reporting Act, section 610(a) (1), 15 U.S.C. 1681h(a) (1), and other applicable laws and regulations, and to process the transaction(s) requested by the consumer.”

(d) “Should the rule address the use of information collected by the centralized source (i.e., by allowing, prohibiting, restricting, or limiting such use)? If so, how? If so, what information should such a rule address, i.e., personally identifiable information collected in connection with file disclosures and/or information collected in connection with products provided through the centralized source? Should any restrictions or limitations differ from those that are applicable to the same information collected currently in connection with the provision of such disclosures and products? On what basis should a distinction between information collected through the centralized source and information currently collected by nationwide consumer reporting agencies be made?”

**Consumers are keenly aware of the danger of identity theft. As such, it is imperative to restrict the flow of personal information by limiting the sharing of this information from the centralized source to the consumer reporting agencies from which the information is requested. There is a clear basis for the distinction between information collected through the centralized source and information currently collected by the nationwide consumer reporting agencies. That distinction lies in the purpose for which the information is used. Nationwide consumer reporting agencies currently collect information to determine a consumer’s credit history. The centralized source collects information so a consumer can obtain a credit report. While the former release of personal information is a necessary evil, the latter release would be a personal sacrifice on the consumer’s behalf. A consumer should not have to sacrifice further personal information in order to obtain a free report.**

**Otherwise a free credit report ceases to be free because the consumer pays for it with his identifiable information.**

“Section 690.1, Appendix D, sets out a model standardized form that can be used for mail or Internet requests to the centralized source. Is the form adequate and appropriate for this purpose? Does the form list the minimum information necessary to properly identify the consumer and process the request? If additional information is needed, identify such information and state why it is needed. Does the form include more personal information than is reasonably necessary to properly identify the consumer?”

“Are the proposed requirements for establishment and operation of the centralized source, set forth in section 610.2(b), appropriate and adequate to fulfill the purpose of enabling consumers to request easily their free annual file disclosures from all nationwide consumer reporting agencies? Are there other issues or problems with respect to establishment and operation of the centralized source that the rule should address? If so, please identify and discuss how the rule could address the issue or problem.”

**The proposed rule section 610.2 (b) (2) (iv) requires the centralized source to provide clear and easily understandable information and instructions to consumers. However, there are no direct provisions regarding those consumers that do not understand the English language. This also applies to the model standardized form as shown in Section 690.1, Appendix D.**

**I represent a very ethnically diverse district. As such, I must provide my constituents with information in many different languages such as Russian, Cantonese, Mandarin, and Urdu. It is imperative that the centralized source provide its information and instructions in a variety of languages to insure that all consumers have access to this information. In addition, the free credit reports should also be available in a variety of languages. Otherwise, the information received by the consumers would be of little use.**

“How could the rule address the potential for fraudulent Web sites, telephone numbers and other ploys that may mimic the centralized source in order to gain access to consumer personally identifiable information or for other illegal means? Should the rule require the nationwide consumer reporting agencies to undertake specific measures to prevent such illegal schemes? If yes, specify what measures would be appropriate and effective. Should the rule require the nationwide consumer reporting agencies to employ measures to reassure consumers that they are contacting the legitimate centralized source? If yes, specify what measure would be appropriate and effective.”

**In order to thwart fraudulent websites, the centralized source should contact the consumer. For example, a consumer contacts the website for the centralized source. The consumer only provides his/her email address and an individual password. Then the centralized source emails a secure link to the consumer. The return email should include the date and time the consumer contacted the centralized source and the individual password. The password would protect the consumer from “phishing” since a fraudulent email would not be able to provide the consumer’s individual password. The consumer can confirm the legitimacy of the email easily by the date and time s/he contacted the centralized source and the password. Then s/he can contact the centralized source by “clicking” onto the official link provided in the reply. Consumers should be educated as to the proper link that could**

**be provided to them. In addition, the link should be easy to recall and recognize. This would prevent consumers from “clicking” on fraudulent similar links.**

**Another way consumers can avoid connecting to fraudulent websites for the centralized source is to provide the link only through the FTC website. In this way, consumers can log onto the FTC website and be linked to the correct site. By limiting access to the centralized source, the FTC can assure consumers they are contacting the correct site.**